

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

RICHARD M. FETSCH
TX-1323523-R§
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§DOCKETED COMPLAINT NO.
10-251 & 12-250**AGREED FINAL ORDER**

On the 15th day of February, 2012, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the license of Richard M. Fetsch (the "Respondent").

In order to conclude this matter, neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order.

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number, TX-1323523-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real properties located at: 6902 Tallahassee Drive, San Antonio, Texas (the "Tallahassee property") (on or about March 15, 2006); 5051 Sierra Madre Drive, San Antonio, Texas (the "Sierra Madre property") (on or about November 1, 2006); 7107 Spring Point, San Antonio, Texas (the "Spring Point property") (on or about June 9, 2007); and 7915 Santa Catalina, San Antonio, Texas (the "Catalina property") (on or about August 4, 2006).
3. Thereafter complaints were filed with the Board. The complaints alleged that the Respondent produced appraisal reports for the properties that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter the Board notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent was also requested to provide certain documentation to the Board.
5. The parties enter into this consent order ("Order") in accordance with TEX. OCC. CODE § 1103.458.
6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to

USPAP in effect at the time of the appraisal reports for the properties:

- a) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the site and improvement(s) description adequately;
- b) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
- c) USPAP Standards 1-3(a) & 2-2(b)(viii) – Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply & demand, physical adaptability of the real estate market and market area trends;
- d) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent failed to provide support and a brief summary of his rationale for the highest and best use;
- e) USPAP Standards 1-4(b)(i) & 2-2(b)(viii) – Respondent failed to use an appropriate method or technique to develop an opinion of site value;
- f) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii) and 1-1(a) & 1-4(b) – Respondent failed to collect, verify, analyze and reconcile the cost new of improvements and did not employ recognized methods and techniques in his cost approach;
- g) USPAP Standards 1-4(a) & 2-2(b)(viii) and 1-1(a) & 1-4(a) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and did not employ recognized methods and techniques in his sales comparison approach;
- h) USPAP Standards 2-2(b)(viii) – Respondent failed to provide an explanation for the exclusion of the income approach;
- i) USPAP Standards 1-5(a) & 2-2(b)(viii) and 1-5(b) & 2-2(b)(viii) – Respondent failed to analyze all agreements of sale, options or listings of the subject property current as of the effective date of the appraisal and did not analyze all sales of the subject within three years of the effective date of the appraisal;
- j) USPAP Standards 1-6(a) & (b) and 2-2(b)(viii) – Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches;

Respondent's reports for the properties contain substantial errors of commission or omission as detailed above which resulted in misleading appraisal reports for the properties.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

ORDER

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's Texas appraiser TX-1323523-R be revoked for a period of 12 months, effective 5:00 p.m., February 15th, 2013.

IT IS FURTHER ORDERED that beginning at 5:00 p.m., February 15th, 2013, the revocation is to be fully probated for 12 months ending February 15th, 2014, subject to the following terms and conditions:

1. **NO TRAINEES.** Respondent shall not sponsor or supervise any appraiser trainees for the duration of the above-referenced period;
2. **MENTORSHIP.** On or before May 15th, 2013, Respondent shall complete ten (10) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board staff in accordance with the schedule and topics set out below. Respondent shall submit a certification form signed by the approved certified USPAP instructor on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion;
 - A. On or before May 15th, 2013, complete ten (10) hours of mentorship with a focus on the sales comparison approach, prior sales history and listing history analysis, and cost approach, including lot value and cost of improvements analysis and determination.
3. **EDUCATION.** On or before August 15th, 2013, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for licensure. **Respondent is solely responsible for locating and scheduling classes to timely**

satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.

- A. On or before August 15th, 2013, complete a minimum fifteen (7) classroom-hour course in Valuation by Comparison. No examination shall be required for this course;
 - B. In lieu of completing the education noted above, Respondent may elect to complete an additional 7 hours of mentorship on market data analysis and the sales comparison approach in the manner described below under the "mentorship" heading.
4. **ADMINISTRATIVE PENALTY.** On or before March 7th, 2013, Respondent shall pay an administrative penalty in the amount of \$500. Payment of the administrative penalty must be by certified funds.
 5. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
 6. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in PERMANENT and IMMEDIATE REVOCATION of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. A violation of these terms will automatically revoke probation and impose the aforementioned revocation of Respondent's certification, commencing on the effective date of the revocation of probation.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF

LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.


THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 4 day of February, 2012.


RICHARD M. FETSCH


TED WHITMER, ATTORNEY FOR
RICHARD M. FETSCH

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 4th day of Feb, 2012, by, to certify which, witness my hand and official seal.

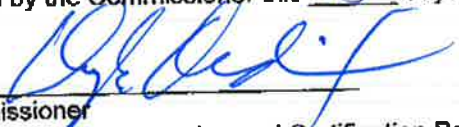

Notary Public Signature
Petrina Telles
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 15TH day of FEBRUARY, 2013.



TALCB Staff Attorney

Signed by the Commissioner this 15th day of February, 2013.



Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 15 day of Feb, 2013.



Chairperson Walker Beard
Texas Appraiser Licensing and Certification Board